

Legal Q&A: *The Intermunicipal Agreement or Library Cooperative*

By Natch Greyes, Government Affairs Counsel
NH Municipal Association (NHMA)

I have to credit the library directors and trustees of New Hampshire. Whenever I think that I've exhausted RSA chapter 202-A for content, I receive a call that causes me to look to an entirely new (to me) section of the statute. Last month, it was RSA 202-A:4-a, authorizing a library to join a library cooperative.

The reason that I was asked to look at that statute was because multiple libraries wanted to join together for a common purpose, and the library director that I was talking to had been advised that they needed to do so under RSA chapter 53-A. RSA chapter 53-A is the chapter that allows a municipality to enter into an agreement with another unit of government (municipal, county, state, etc.) to jointly-exercise any power or powers, privileges or authority exercised or capable of exercise by that municipality. Often, this takes the form of public safety. Two or more municipalities might be too small individually to support the costs of a full-time police department or fire department, but by joining forces they can afford to obtain that full-time service.

Chapter 53-A agreements are common and useful for regional approaches. They allow multiple municipalities to join forces, set-up an oversight board, and, ultimately, save money while also providing a greater array of services to their citizens. In the context of libraries, towns with libraries that would benefit from regionalization could seek to enact a Chapter 53-A agreement.

But there are downsides as well. Regionalization means giving up local control. And, in the context of libraries, a better option is probably to form a library cooperative pursuant to RSA 202-A:4-a. That cooperative can consist of public libraries, or of public and other than public libraries including school, college and university, and special libraries. And, because the term "library cooperative" is not defined anywhere in the statute, a court would use RSA 21:2 to construe that term according to the common and approved usage of the language. In other words, a court would look to the dictionary definition. As such, the operative definition is the one pertaining to "cooperative," an organization which is owned and run jointly by its members, who share the profits or benefits. Sound familiar?

Libraries, as it happens, can basically enter into Chapter 53-A agreements without going through the process required by Chapter 53-A. All they really need is approval by each library's trustees. And, it gets better.

RSA 202-A:4-b states that a town can enter into a contract with "another town or city, or with an institution or other organization, for any library service." Presumably, "other organization" includes "library cooperatives." As such, two or more libraries can form a separate organization run as they see fit for their own benefits, and contract with towns without libraries to provide those towns with library services. □